

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

JAN 10 AM 9:47

AUTOMOTIVE CAPITAL
COMPANY, LLC,

Plaintiff,

v.

JAMES D. WOOD and CAROLE L. WOOD,

Defendants.

ENTERED

JAN 10 2000

U.S. DISTRICT COURT
N.D. OF ALABAMA

CIVIL ACTION NO. 98-JEO-1850-S

AUTOMOTIVE CAPITAL
COMPANY, LLC,

Plaintiff,

v.

SONCAR ENTERPRISES, INC.,

Defendant.

CIVIL ACTION NO. 98-JEO-2765-S

MEMORANDUM OF OPINION

In these diversity actions, Automotive Capital Company, LLC, ("ACC" or "plaintiff") seeks to recover damages from defendants James D. Wood, Carole L. Wood, and Soncar Enterprises, Inc. ("Soncar"), under various contracts and guaranties. The matters were consolidated on February 2, 1999. Plaintiff filed a "Motion for Summary Judgment" (doc. 7), a "Motion to Strike" (doc. 15), and a "Motion for Summary Judgment Against Soncar and Renewed Motion for Summary Judgment Against James D. and Carole L. Wood" (doc. 18). On December 2, 1999, a magistrate judge of this court entered a report and recommendation finding (1) that the plaintiff's motion for summary judgment against James D. and Carole L. Wood (doc.

7) was due to be granted, (2) the motion for summary judgment against Soncar was due to be granted and the renewed motion for summary judgment as to the Woods (doc. 18) was moot, and (3) the plaintiff's motion to strike (doc. 15) was due to be granted to the extent the defendants' supplemental response was offered in opposition to the original motion for summary judgment against the Woods. (Doc. 21). There were no objections to the report and recommendation from any party.


The court has considered the entire file in this action together with the magistrate judge's report and recommendation and has reached an independent conclusion that the report and recommendation is due to be adopted and approved. The court hereby adopts and approves the findings and recommendations of the magistrate judge as the findings and conclusions of the court. In accord with the recommendations, the plaintiff's motion for summary judgment against James D. and Carole L. Wood (doc. 7) is due to be granted, (2) the motion for summary judgment against Soncar is due to be granted and the renewed motion for summary judgment as to the Woods (doc. 18) is moot, and (3) the plaintiff's motion to strike (doc. 15) is due to be granted to the extent the defendants' supplemental response was offered in opposition to the original motion for summary judgment against the Woods. (Doc. 21). The court further finds that ACC is to be awarded (1) a monetary judgment against the defendants for damages in an amount, including interest, to be determined after a hearing, (2) an attorney's fee in the amount of \$212,128.46, (3) immediate possession of the collateral, and (4) the costs of these proceedings.

Reassignment of this case to the undersigned district judge occurred pursuant to the usual practices of this Court. The only remaining issues concern the amount of damages due and

owing the plaintiff under the contracts and guaranties. Accordingly, this matter will be referred to Magistrate Judge John E. Ott, pursuant to 28 U.S.C. § 636(b)(3), for the purpose of conducting an evidentiary hearing on the amount of damages due and owing the plaintiff. After said hearing, Magistrate Judge Ott is to submit a report of proposed findings of fact and recommendations for disposition of this matter to the undersigned district judge.

An order consistent with the findings and conclusions in this memorandum of opinion will be entered contemporaneously herewith.

DONE, this 9th day of January, 2000.



WILLIAM M. ACKER, JR.
UNITED STATES DISTRICT JUDGE